

**1822.1406 Complaint procedures.**

Contracting officers shall submit all complaints to the Associate Administrator for Equal Opportunity Programs (Code E).

**PART 1823—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE****Subpart 1823.1—Pollution Control and Clean Air and Water**

Sec.

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1823.7102 Procedures.

AUTHORITY: 42 U.S.C. 2473(c)(1)

SOURCE: 61 FR 55757, Oct. 29, 1996, unless otherwise noted.

**Subpart 1823.1—Pollution Control and Clean Air and Water****1823.106 Delaying award. (NASA supplements paragraph (a))**

(a) Notifications shall be submitted through the procurement officer and the Associate Administrator for Procurement (Code HS).

**1823.107 Compliance responsibilities.**

Notifications under FAR 23.107 shall be submitted through the same channels as under 1823.106.

**Subpart 1823.3—Hazardous Material Identification and Material Safety Data****1823.370 Acquisition of potentially hazardous items from or through another Government agency.**

When acquiring supplies or services from or through another Government agency (e.g., see FAR part 8 and FAR subpart 17.5), NASA shall request that agency to furnish NASA the data required by FAR subpart 23.3.

**Subpart 1823.5—Drug-Free Workplace****1823.570 Drug- and alcohol-free workforce.****1823.570-1 Scope.**

Sections 1823.570 through 1823.570-4 set forth NASA requirements for mandatory drug and alcohol testing of certain contractor personnel under section 203, National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2473, 72 Stat. 429; and Civil Space Employee Testing Act of 1991, Public Law 102-195, sec. 21, 105 Stat. 1616 to 1619.

**1823.570-2 Definitions.**

As used in this subpart *employee* and *controlled substance* are as defined in FAR 23.503. The use of a controlled substance in accordance with the terms of a valid prescription, or other uses authorized by law shall not be subject to the requirements of 1823.570 through 1823.570-4 and the clause at 1852.223-74.

*Employee in a sensitive position* means a contractor or subcontractor employee who has been granted access to classified information; a contractor or subcontractor employee in other positions that the contractor or subcontractor determines could reasonably be expected to affect safety, security, National security, or functions other than the foregoing requiring a high degree of trust and confidence; and includes any employee performing in a position designated "mission critical" pursuant to the clause at 1852.246-70. The term also includes any applicant who is interviewed for a position described in this paragraph.

*Use, in violation of applicable law or Federal regulation, of alcohol* includes having, while on duty or during a pre-employment interview, an alcohol concentration of 0.04 percent by weight or more in the blood, as measured by chemical test of the individual's breath or blood. An individual's refusal to submit to such test is presumptive evidence of use, in violation of applicable law or Federal regulation, of alcohol.

**1823.570-3 Contract clause.**

The contracting officer shall insert the clause at 1852.223-74, "Drug- and Alcohol-Free Workforce," in all solicitations and contracts containing the clause at 1852.246-70, "Mission Critical Space Systems Personnel Reliability Program," and in other solicitations and contracts exceeding \$5 million in which work is performed by an employee in a sensitive position. However, the contracting officer shall not insert the clause at 1852.223-74 in solicitations and contracts for commercial items (see FAR parts 2 and 12).

**1823.570-4 Suspension of payments, termination of contract, and debarment and suspension actions.**

The contracting officer shall comply with the procedures of FAR 23.506 regarding the suspension of contract payments, the termination of the contract for default, and debarment and suspension of a contractor relative to failure to comply with the clause at 1852.223-74. Causes for suspension of contract payments, termination of the contract for default, and debarment and suspension of the contractor are the following:

(a) The contractor fails to comply with paragraph (b), (c), or (d) of the clause at 1852.223-74; or

(b) Such a number of contractor employees in sensitive positions having been convicted of violations of criminal drug statutes or substantial evidence of drug or alcohol abuse or misuse occurring in the workplace, as to indicate that the contractor has failed to make a good faith effort to provide a drug- and alcohol-free workforce.

**Subpart 1823.70—Safety and Health**

**1823.7001 NASA contract clauses.**

(a) Except as provided in paragraph (b) of this section, the clause at 1852.223-70 shall be included in—

(1) All negotiated contracts of \$1,000,000 or more;

(2) All construction, repair, or alteration contracts in excess of the simplified acquisition threshold;

(3) All contracts having, within their total requirement, construction, repair, or alteration tasks in excess of the simplified acquisition threshold; and

(4) Any acquisition regardless of dollar amount when:

(i) Any deliverable contract end item is of a hazardous nature, or

(ii) During the life of the contract it can reasonably be expected that hazards will be generated within the operational environment and the contracting officer determines that they warrant inclusion of the clause.

(b) The clause prescribed in paragraph (a) of this section may be excluded

(1) From any contract subject to the Walsh-Healey Public Contracts Act (see FAR subpart 22.6) or the Service Contract Act of 1965 (see FAR subpart 22.10) in which the application of the act and its implementing regulations constitute adequate safety and health protection;

(2) When the contracting officer makes a written determination that the clause is not necessary under the circumstances of the acquisition, and;

(3) Exclusion of the clause is approved by the installation safety and health official.

(c) The contracting officer shall insert the provision at 1852.223-73, Safety and Health Plan, in solicitations containing the clause at 1852.223-70, when a Safety and Health Plan is to be submitted with the offeror's proposal. This clause may be modified to identify specific information that is to be included in the plan. The contracting officer shall include the approved plan in any resulting contract.

(d) When the installation safety and health official recommends that a Safety and Health Plan be submitted by the apparently successful offeror after notification of selection but before contract award, the provision at 1852.223-73 shall be used with its Alternate I.

### **Subpart 1823.71—Frequency Authorization**

#### **1823.7101 Contract clause.**

The contracting officer shall insert the clause at 1852.223-71, Frequency Authorization, in solicitations and contracts calling for developing, producing, constructing, testing, or operating a device for which a radio frequency authorization is required.

#### **1823.7102 Procedures.**

The contracting officer shall obtain the necessary frequency authorization and other procedural details from the installation's spectrum manager.

## **PART 1824—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION**

### **Subpart 1824.1—Protection of Individual Privacy**

Sec.

1824.102 General.

### **Subpart 1824.2—Freedom of Information Act**

1824.203 Policy.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 61 FR 55758, Oct. 29, 1996, unless otherwise noted.

### **Subpart 1824.1—Protection of Individual Privacy**

#### **1824.102 General.**

(1) For NASA rules and regulations implementing the Privacy Act, see Privacy—NASA Regulations, (14 CFR 1212). The Act applies to any contractor maintaining a system of records to accomplish a NASA mission.

(2) Systems of records to which the Privacy Act does not apply include—

(i) Records maintained by a contractor on individuals employed by the contractor on its own behalf for the purpose of providing supplies and services to the Federal Government; and

(ii) Records that—

(A) Are maintained under contracts with educational institutions to provide training;

(B) Are generated on students working under the contract relative to their attendance (admission forms, grade reports, etc.);

(C) Are similar to those maintained on other students; and

(D) Are commingled with their records on other students.

### **Subpart 1824.2—Freedom of Information Act**

#### **1824.203 Policy. (NASA supplements paragraphs (a) and (b))**

(a) For NASA implementation of the Freedom of Information Act, see Availability of Agency Records to Members of the Public (14 CFR part 1206).

(b) When receiving any Freedom of Information Act request from the public, the contracting officer shall immediately refer the request to the Freedom of Information Act Officer, NASA Information Center, or other responsible point of contact as set forth in installation procedures.

[61 FR 55758, Oct. 29, 1996. Redesignated at 62 FR 36713, July 9, 1997]

## **PART 1825—FOREIGN ACQUISITION**

Sec.

1825.000 Scope of part.

1825.000-70 Definition.

### **Subpart 1825.1—Buy American Act—Supplies**

1825.101 Definitions.

1825.101-70 NASA definition.

1825.102 Policy.

1825.103 Agreements with certain foreign governments.

1825.103-70 Canadian end products.

1825.105 Evaluating offers.

1825.108 Excepted articles, materials, and supplies.